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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,351	08/02/2001	Uwe Werner Ehling	BATG-6	6032

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EXAMINER

WALLS, DIONNE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 06/18/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,351

Applicant(s)

EHLING ET AL.

Examiner

Dionne A. Walls

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-27, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10, 13-19 and 21-25 is/are rejected.
- 7) ☒ Claim(s) 11, 12, 20, 26, 27, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 30 is objected to because it depends from cancelled claim 29. Correction is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 6, 16-18 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Rothchild (US. Pat. No. 4,561,453).

Rothchild discloses an apparatus for treating tobacco under pressure which includes a pressure vessel which operates at about 65 psig (corresponding to the claimed "chamber" at hyperbaric pressure) having entrance and exit conduits (corresponding to the claimed "upper inlet/lower outlet"), with corresponding entrance and exit locks (corresponding to the claimed "cellular wheel sluice...pressure differential proof"), and nozzles (see entire document).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-10, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothchild (US. Pat. No. 4,561,453) in view of Grigutsch et al (US. Pat. No. 6,158,441).

Regarding claims 7-8, While Rothchild may not disclose that the nozzles of its invention are formed as ring nozzles that are arranged flush with the inner surface, Grigutsch et al, which teaches of a chamber for delivering tobacco by gravity to be subsequently treated, appears to disclose nozzles that appear to be located on at least three locations of the chamber, which (like Rothchild) is assumed to be cylindrical in shape. It follows that the nozzles could be considered "ring nozzles" since they are positioned on a cylinder (i.e. ring) which comprises the chamber wall. Also, it appears that the nozzles are flush with the inner surface of the chamber. Therefore, it would have been obvious to one having ordinary skill in the art to fabricate the nozzles of Rothchild such that they are arranged in like manner since this type of arrangement is known in tobacco conditioning apparatuses – as evidenced by the Grigutsch reference - and in order to prevent the flow of tobacco toward the end of the conditioning device in which said tobacco is being conveyed.

Regarding claims 9-10, and 19, the discharge direction articulated in the claims is not deemed to patentably distinguish them from the references since these would have been obvious modifications to one having ordinary skill in the art after endeavoring to

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optimize the angle of the nozzles to provide the most effective delivering of conditioning material to the conveyed tobacco.

4. Claims 6, 13-18, and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rickett et al (US. Pat. No. 4,791,942).

Rickett et al discloses an apparatus for the treatment of tobacco comprising a vessel capable of being pressurized from 5-300 psig (corresponding to the claimed "chamber...hyperbaric"), and having an inlet for tobacco to enter and an outlet for tobacco to exit the vessel. The flow of tobacco may be by gravity, so it is preferable to locate the inlet substantially vertically over the outlet which discharges treated tobacco into a duct (corresponding to the claimed "airflow dryer"). Both the inlet and outlet openings are provided with ball valves (corresponding to the claimed "cellular wheel sluice...pressure differential proof sluices"). One or more conduits, connected to a source of treating agent and pressure extends into the vessel, and a plurality of openings are located along the conduit for delivering the agent to the falling tobacco (col. 5, lines 35-47). While Rickett et al does not specifically disclose that the conduit contains nozzles in conjunction with the openings, one having ordinary skill in the art would have been motivated to provide nozzles, since these devices are conventional for distributing a fluid. The nozzles of Rickett et al would then be *capable* of delivering any fluid, such as water vapor. As apparent from figure 4, the vessel expands in a tapered manner downwardly, such that it would obviously have a slightly higher conveying volume at the lower exit valve than at the upper inlet valve.

Allowable Subject Matter

5. Claims 11-12, 20,26,27 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments, filed March 27th, 2003, with respect to the rejections of the pending claims have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the newly found references, as stated above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

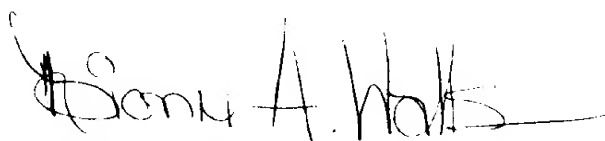
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to read "Dionne A. Walls". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

Dionne A. Walls
June 14, 2003